

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

CITIZENS UTILITY BOARD

Request for an investigation)
into the current structure of the Nicor)
Customers Sect Pilot Program and the)
Proposed Changes filed August 10, 2000,)
Meet the Public Interest Standards and)
Other Requirements Set Forth in the)
Public Utilities Act. 220 ILCS 5/4-101;)
220 ILCS 5/8-101; 220 ILCS 8-102)

Docket No. 00-0620

DIRECT TESTIMONY

OF

JEROME D. MIERZWA

ON BEHALF OF THE

CITIZENS UTILITY BOARD

COOK COUNTY

PEOPLE OF THE STATE OF ILLINOIS

GCI EX 2.0 NP

PUBLIC VERSION

MATERIAL DEMED TO BE PROPRIETARY HAS BEEN DELETED

DECEMBER 19, 2000

OFFICIAL FILE

I.C.C. DOCKET NO. 00-0620/621

GCI Exhibit No 2.0

Witness

Date 3-1-01 Reporter BAP

I. INTRODUCTION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

Q. WOULD YOU PLEASE STATE YOUR NAME AND BUSINESS ADDRESS?

A. My name is Jerome D. Mierzwa. I am a principal and Vice President with Exeter Associates, Inc. My business address is 12510 Prosperity Drive, Suite 350, Silver Spring, Maryland, 20904. Exeter specializes in providing public utility-related consulting services.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A. I graduated from Canisius College in Buffalo, New York, in 1981 with a Bachelor of Science Degree in Marketing. In 1985, I received a Masters Degree in Business Administration with a concentration in finance, also from Canisius College. In July 1986, I joined National Fuel Gas Distribution Corporation ("NFG Distribution") as a Management Trainee in the Research and Statistical Services Department ("RSS"). I was promoted to Supervisor RSS in January 1987. While employed with NFG Distribution, I conducted various financial and statistical analyses related to the company's market research activity and state regulatory affairs. In April 1987, as part of a corporate reorganization, I was transferred to National Fuel Gas Supply Corporation's ("NFG Supply") rate department where my responsibilities included utility cost of service and rate design analysis, expense and revenue requirement forecasting and activities related to federal regulation. I was also responsible for preparing NFG Supply's Purchase Gas Adjustment ("PGA") filings and developing interstate pipeline and spot market supply

1 gas price projections. These forecasts were utilized for internal planning purposes as well
2 as in NFG Distribution's 1307(f) proceedings.

3 In April 1990, I accepted a position as a Utility Analyst with Exeter Associates,
4 Inc. In December 1992, I was promoted to Senior Regulatory Analyst. Effective April 1,
5 1996, I became a principal of Exeter Associates. Since joining Exeter Associates, I have
6 specialized in evaluating the gas purchasing practices and policies of natural gas utilities,
7 utility class cost of service and rate design analysis, sales and rate forecasting,
8 performance-based incentive regulation, revenue requirement analysis, the unbundling of
9 utility services and the evaluation of small customer choice natural gas transportation
10 programs.

11

12 Q. HAVE YOU PREVIOUSLY TESTIFIED IN REGULATORY PROCEEDINGS ON
13 UTILITY RATES?

14 A. Yes. I have provided testimony on more than 70 occasions in proceedings before the
15 Federal Energy Regulatory Commission ("FERC"), utility regulatory commissions in
16 Delaware, Georgia, Indiana, Louisiana, Montana, Nevada, New Jersey, Ohio,
17 Pennsylvania, Rhode Island, Texas and Virginia, as well as before this Commission.

18

19 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

20 A. Exeter associates, inc. was retained by the Citizens Utility Board, the Cook County
21 State's Attorney's Office and the People of the State of Illinois (collectively "Public and
22 Governmental Intervenors ("PGI")) to review Nicor gas company's ("Nicor" or "the

1 Company") proposal to expand its *Customer Select* program system-wide. My testimony
2 presents my findings and recommendations concerning the supplier aspects of Nicor's
3 proposal. Ms. Barbara Alexander, who is also testifying on behalf of PGI, addresses
4 consumer protection, customer education and code of conduct issues.

5
6 Q. WHAT IS YOUR EXPERIENCE WITH RESPECT TO TRANSPORTATION
7 PROGRAMS FOR SMALL CUSTOMERS SUCH AS *CUSTOMER SELECT*?

8 A. I have been involved in reviewing and evaluating a number of customer choice programs
9 throughout the country. This includes reviewing the programs of Columbia Gas of Ohio
10 and the East Ohio Gas Company on behalf of the Staff of the Public Utility Commission
11 of Ohio; the programs of Columbia Gas of Pennsylvania, Equitable Gas Company,
12 National Fuel Gas Distribution, the Peoples Natural Gas Company, T.W. Phillips Gas &
13 Oil and UGI Utilities, Inc. - Gas Division on behalf of the Pennsylvania Office of
14 Consumer Advocate; the programs of Columbia Gas of Kentucky and Columbia Gas of
15 Virginia on behalf of the Attorney General Offices of the States of Kentucky and
16 Virginia, respectively; the unbundling program of Northern Indiana Public Service
17 Company on behalf of the Indiana Utility Consumer Counselor; the programs of Public
18 Service Electric & Gas, Elizabethtown Gas, New Jersey Natural Gas and South Jersey
19 Gas on behalf of the New Jersey Ratepayer Advocate; and developing the terms and
20 conditions of a gas pilot customer choice program for Delmarva Power and Light on
21 behalf of the Delaware Division of Public Advocate.

22

1 Q. PLEASE SUMMARIZE YOUR FINDINGS AND RECOMMENDATIONS.

2 A. I believe regulatory authorities, including this Commission, have an affirmative
3 responsibility to set just and reasonable rates. This includes ensuring that the benefits of
4 competition for services, which are subject to competition, are maximized. The bundled
5 sales service currently provided by Nicor consists of two primary components: (1) natural
6 gas supply service; and (2) distribution service. Natural gas supply service is subject to
7 competition and can be provided by third-party suppliers. This Commission should take
8 an active role in promoting the development of a competitive market for natural gas
9 supply service. Unless the Commission affirmatively directs the restructuring of the
10 market for natural gas supply service, customers will not realize the full benefits of
11 competition.

12 As presently structured, Nicor's *Customer Select* program does not promote the
13 development of a competitive market for natural gas supply service. Rather, it appears
14 that the *Customer Select* program has been implemented for the benefit of Nicor and its
15 affiliates, and shifts revenues previously subject to the Commission's jurisdiction to an
16 unregulated affiliate where they are no longer subject to the Commission's jurisdiction.
17 Nicor's *Customer Select* program provides its affiliate, Nicor Energy, with competitive
18 advantages and, therefore, hinders the development of competition. Nicor's *Customer*
19 *Select* program should be modified to ensure a level playing field for all suppliers so that
20 the benefits of competition can be maximized. In addition, other modifications should be
21 adopted to encourage supplier participation and promote the development of a
22 competitive market for natural gas supply service. To accomplish this, I recommend that:

- 23 • Nicor's aggregation charges and switching fees be eliminated;
- 24
- 25

- Suppliers should be given the option of billing Nicor's distribution charges;
- The Commission should promptly adopt an Affiliate Code of Conduct for natural gas distribution companies and retail suppliers, and prohibit the use of shared names and logos by affiliated suppliers; and
- Suppliers should be provided additional flexibility with respect to the utilization of storage.

1
2
3
4
5
6
7
8
9
10
11 Q. IN PREPARING YOUR TESTIMONY, DID YOU DISCUSS NICOR'S *CUSTOMER*
12 *SELECT* PROGRAM WITH ANY OF THE SUPPLIERS CURRENTLY
13 PARTICIPATING IN THE PROGRAM?

14 A. Yes, I did. I spoke with personnel from Volunteer Energy, WPS Energy, the Energy
15 Cooperative and Cornbelt Energy. Each of these suppliers is presently serving residential
16 customers in the *Customer Select* program.

17
18 Q. WHAT DID SUPPLIERS IDENTIFY AS THEIR MAJOR CONCERN WITH THE
19 NICOR *CUSTOMER SELECT* PROGRAM?

20 A. The major concern identified by suppliers was the relationship between Nicor and its
21 marketing affiliate Nicor Energy. Suppliers believed that this relationship provided
22 inappropriate competitive advantages for Nicor Energy. This concern is discussed in
23 greater detail in my testimony.

24

25 **II. PROGRAM BACKGROUND AND PERSPECTIVE**

26 Q. BRIEFLY DESCRIBE HOW GAS SUPPLIES ARE DELIVERED TO THE
27 CUSTOMERS OF A LOCAL GAS DISTRIBUTION COMPANY ("LDC").

1 A. LDCs are typically not located in regions with sufficient natural gas production to satisfy
2 the requirements of their customers. In fact, no natural gas production exists in the
3 service territories of many LDCs. Therefore, gas is typically transported from producing
4 regions to LDC systems by interstate pipelines. The points of connection between
5 interstate pipelines and LDCs are typically referred to as citygates. Gas delivered to
6 LDCs by interstate pipelines may be utilized by the LDCs to meet their customers'
7 current requirements, or may be injected into on-system storage facilities operated by the
8 LDC and utilized to meet customer requirements at a later time. Gas transported from a
9 producing region by interstate pipelines may also be injected into storage facilities
10 operated by the interstate pipelines and ultimately delivered to the LDC at a later time.
11 Gas delivered to LDCs by interstate pipelines or withdrawn from LDC on-system storage
12 facilities is distributed to LDC customers through networks of pipes owned by the LDCs.
13 These networks of pipes are referred to as distribution systems
14

15 Q. WHAT ARE THE PRIMARY COMPONENTS OF THE BUNDLED SALES SERVICE
16 CURRENTLY PROVIDED TO NICOR'S SALES CUSTOMERS?

17 A. The primary components of bundled sales service are distribution (or transportation)
18 service and natural gas supply service. Distribution service refers to the activities
19 associated with delivery of gas from an LDC's citygate to the premises of its customers.
20 Distribution service can be further subdivided into several components, including
21 delivery service, metering and billing. Natural gas supply service generally refers to the
22 services and arrangements necessary to deliver gas, including the purchase of the

1 commodity itself, to the LDC's citygate. Under its traditional bundled sales service,
2 Nicor provides both distribution and natural gas supply service. Under the *Customer*
3 *Select* program, Nicor continues to provide distribution service, but a third-party supplier
4 provides natural gas supply service.

5
6 Q. PLEASE PROVIDE A BRIEF HISTORY OF NICOR'S *CUSTOMER SELECT*
7 PROGRAM.

8 A. The Commission originally approved the *Customer Select* pilot program in 1997 to be
9 effective for three years. Customers began receiving service under the provisions of
10 *Customers Select* in May 1998. Enrollment for the first year was limited to the first
11 20,000 commercial and industrial sales customers. For the second year of the program,
12 the number of participating commercial customers was increased to 60,000. In addition,
13 approximately 80,000 residential customers in selected communities were eligible to
14 participate. In the third year, all commercial and industrial customers were eligible to
15 participate. For residential customers, the number of eligible customers was increased to
16 approximately 280,000.

17
18 Q. WHAT CAPACITY RESOURCES DOES NICOR CURRENTLY UTILIZE TO
19 PROVIDE BUNDLED SALES SERVICE?

20 A. Nicor reserves or maintains capacity resources sufficient to meet the design peak day
21 requirements of its sales customers. These resources include transportation and storage
22 capacity purchased under arrangements with interstate pipelines and n-system storage.

1 Approximately 48 percent of Nicor's design peak day requirements are accommodated
2 by on-system storage, 20 percent is accommodated by interstate pipeline storage and 32
3 percent by interstate pipeline transportation arrangements.
4

5 Q. DOES NICOR ASSIGN OR PROVIDE SUPPLIERS WITH ACCESS TO THE
6 RESOURCES IT RELIES UPON TO PROVIDE BUNDLED SALES SERVICE WHEN
7 CUSTOMERS ELECT TO PARTICIPATE IN THE *CUSTOMER SELECT* PROGRAM?

8 A. Nicor does not assign to suppliers the firm interstate pipeline transportation capacity
9 utilized to provide bundled sales service. Suppliers are required to secure firm interstate
10 pipeline transportation capacity equal to 32 percent of their customers' design peak day
11 requirements from alternative sources. Suppliers are allocated and their customers pay
12 for, a share of Nicor's interstate pipeline and on-system storage capacity sufficient to
13 meet 68 percent of their customers' design peak day requirements. The amount of gas to
14 be injected or withdrawn under Nicor's interstate pipeline storage arrangements and on-
15 system storage facilities is determined by Nicor at its sole discretion. That is, suppliers
16 are not entitled to utilize the injection and withdrawal flexibility provided by storage to
17 serve their customers even though their customers pay for this storage flexibility.
18

19 Q. BRIEFLY DESCRIBE THE DAILY DELIVERY OBLIGATIONS OF SUPPLIERS.

20 A. Each day, Nicor determines the quantity of gas to be delivered by each supplier under the
21 supplier's interstate pipeline transportation arrangements. This quantity is referred to by
22 the Company as the Required Daily Delivery ("RDD"). The RDD is based on Nicor's

1 estimate of the use by each supplier's customers, adjusted for gas to be injected or
2 withdrawn from storage, as determined by Nicor. Because Nicor determines daily
3 storage injection and withdrawal quantities, suppliers cannot utilize the flexibility
4 available from the Nicor assigned storage to accommodate changes in their Required
5 Daily Delivery quantities.
6

7 Q. HOW MANY SUPPLIERS PARTICIPATING I N *CUSTOMER SELECT* ARE
8 CURRENTLY SERVING RESIDENTIAL CUSTOMERS?

9 A. It is my understanding that five suppliers are providing natural gas supply service to
10 residential customers participating in Nicor's existing *Customer Select* program. It is
11 also my understanding that only three suppliers intend to continue to market to Nicor's
12 residential customers in the future.
13

14 Q. DO YOU BELIEVE THAT THE SIZE OF THE CURRENT *CUSTOMER SELECT*
15 PROGRAM IS LARGE ENOUGH TO GENERATE SIGNIFICANT SUPPLIER
16 INTEREST?

17 A. Yes. Approximately 280,000 customers are currently eligible to participate in the
18 program.
19

20 Q. IF THE COMMISSION WERE TO INCREASE THE NUMBER OF CUSTOMERS
21 ELIGIBLE TO PARTICIPATE IN *CUSTOMER SELECT*, WHAT WOULD BE YOUR
22 RECOMMENDATION?

1 A. It would be my recommendation that the number of customers eligible to participate in
2 the *Customer Select* pilot be increased to 560,000, or twice the current level. This is
3 larger than the entire service territory of many LDCs, which operate customer choice
4 programs, and should generate additional supplier interest. Moreover, it would preserve
5 the pilot nature of the program.
6

7 Q. HAS ONE SUPPLIER BEEN MORE SUCCESSFUL THAN THE OTHERS?

8 A. Yes, Nicor Energy, L.L.C., Nicor's affiliate, has been successful in acquiring more than
9 of the residential customers participating in *Customer Select*, and nearly
10 of the commercial and industrial customers
11

12 Q. THE TESTIMONY PRESENTED BY NICOR WITNESS HARRIS SUGGESTS THAT
13 NICOR'S CUSTOMERS ARE BETTER OFF SIMPLY BECAUSE THEY HAVE A
14 CHOICE IN SELECTING THEIR NATURAL GAS SUPPLIER. IS CUSTOMER
15 CHOICE A WORTHWHILE END IN AND OF ITSELF ?

16 A. Whether customer choice is a worthwhile end in and of itself is perhaps best summarized
17 by the National Regulatory Research Institute¹:

18
19 But customer choice is not a worthwhile end in and of itself
20 unless the choice is meaningful. Meaningful customer choice
21 maximizes consumer welfare; that is, consumers are better off
22 either because they value the services they are receiving more
23 highly than services that they received before, or because they are

¹Market Analyses of Public Utilities: The Now and Future Role of State Commissions Robert E. Burns, Esq., Kenneth Costello, Edwin Rosenberg, Ph.D., and Frank Darr, Esq., July 1999.

1 receiving the services that they received before at a lower price, or
2 both.

3
4 For customer choice to exist in a manner that maximizes
5 consumer welfare, two preconditions must be met. One
6 precondition is that there is in place a market structure that allows
7 each customer to have a full range of available suppliers from
8 which to choose. For this to occur there must be at least workable
9 competition. If the market is a tight oligopoly or even a loose
10 oligopoly where one firm acts as the dominant firm, then there
11 probably is not the full range of available suppliers from which to
12 choose. Workable competition is often defined as there being no
13 fewer than five firms.

14
15 Clearly, with one supplier serving over of residential customers,
16 customer choice under the Nicor *Customer Select* program is not meaningful, price and
17 service competition is limited and consumer welfare is not maximized.

18
19 Q. HAVE CUSTOMERS PARTICIPATING IN THE PROGRAM BENEFITED BY
20 SAVING MONEY?

21 A. A survey conducted by Nicor indicates that some customers have saved money.
22 However, Nicor has been unable to identify which customers saved money, and
23 particularly whether customers selecting Nicor Energy have saved money. If savings
24 have been achieved, those savings have largely occurred by chance. Savings would have
25 been achieved because customers entered into fixed price arrangements at a time when
26 natural gas prices were significantly lower than current prices. The price of Nicor's
27 bundled sales service generally reflects current prices. If natural gas prices declined after
28 a customer had entered into a fixed price arrangement, savings would not have been
29 achieved. In addition, suppliers have been able to achieve savings by avoiding certain

1 taxes, which are assessed on the sales service provided by Nicor. These taxes are not
2 similarly applied to services provided by nonutility suppliers.

3
4 Q. HOW IS THE REMAINDER OF YOUR TESTIMONY STRUCTURED?

5 A. In the remainder of my testimony, I propose a number of modifications to Nicor's
6 *Customer Select* program designed to promote meaningful choices for Nicor's customers.

7 **III. FEES AND CHARGES**

8 Q. WHAT ADMINISTRATIVE FEES AND CHARGES ARE ASSESSED TO
9 SUPPLIERS PARTICIPATING IN *CUSTOMER SELECT*?

10 A. A number of administrative fees and charges are assessed to suppliers participating in
11 *Customer Select*. These charges include:

- 12 a) \$200 per month charge for each group of customers served;
- 13 b) \$1 per month per customer account charge;
- 14 c) \$10 per customer charge for a customer switching from another supplier;
- 15 and
- 16 d) \$0.50 per bill charge if Nicor performs the billing function for the
- 17 supplier.

18
19 Q. ARE THESE FEES AND CHARGES REASONABLE?

20 A. No. Nicor's fees and charges should be eliminated for several reasons. First, suppliers
21 will be competing with Nicor to provide natural gas supply service. These fees and
22 charges give Nicor a competitive advantage in that these charges are only assessed when

1 a customer purchases natural gas supply service from a thirdparty supplier. Elimination
2 of these fees and charges will level the paying field between thirdparty suppliers and
3 Nicor and promote competition.

4 Second, to the extent Nicor's fees and charges exceed the incremental costs
5 associated with the provision of *Customer Select*, the fees and charges may act to restrain
6 competition among natural gas suppliers and provide an unfair competitive advantage for
7 Nicor's gas marketing affiliate, Nicor Energy. The payment of fees and charges, which
8 are in excess of incremental cost by Nicor's marketing affiliate, has no economic effect
9 on Nicor, Inc., Nicor's corporate parent. The reason is that these fees and charges
10 applied to Nicor Energy merely shift money from one Nicor, Inc. pocket to another.
11 Higher costs for the marketing affiliate translate directly into higher income for Nicor.
12 But the proposed fees and charges do burden all other suppliers on Nicor's system, and
13 they provide a net benefit to Nicor, Inc. These fees and charges provide an economic
14 cost advantage to Nicor Energy, thus making it harder for other suppliers to compete with
15 Nicor's marketing affiliate. As already explained, Nicor Energy has acquired more than
16 of participating residential customers.

17 Finally, as a result of *Customer Select*, Nicor may experience certain cost
18 reductions, which they would not otherwise experience. These may include lower cash
19 working capital for gas in storage inventory, and lower cash working capital requirements
20 for purchased gas costs and administrative and general costs associated with the
21 acquisition and delivery of gas supplies. These cost reductions may serve to offset any
22 revenue reductions resulting from the elimination of the current fees and charges. Nicor

1 has not demonstrated that any additional costs, which may be incurred as a result of
2 Customer Select, exceed the cost reductions, which may be experienced. Therefore, there
3 is no cost basis to impose the fees and charges or conclude that Nicor's current
4 distribution charges are not adequate to recover Nicor's cost of service.
5

6 Q. COULD YOU PROVIDE A MORE SPECIFIC EXAMPLE OF THE POTENTIAL
7 COST SAVINGS, WHICH NICOR MAY EXPERIENCE AS A RESULT OF
8 CUSTOMER SELECT?

9 A. Yes. As previously explained, under the *Customer Select* program, suppliers are assigned
10 storage by Nicor. The amount of storage capacity assigned is equal to 32 times the
11 design peak day requirement of each customer. Suppliers are required to fill the assigned
12 storage capacity. For an average residential customer, a supplier would be assigned 544
13 therms of storage capacity. At an average cost of 40 cents per therm, the return and taxes
14 associated with storage inventory for a residential customer is approximately \$2.30 per
15 month.² The costs associated with maintaining storage inventory are currently included
16 in Nicor's base rates. As a result of *Customer Select*, Nicor would no longer incur this
17 cost. These savings exceed the revenues realized by Nicor from the charges it assesses to
18 suppliers. That is, the savings realized by Nicor as a result of *Customer Select*, exceed
19 the costs associated with the program.
20

² Assumes storage inventory is on average one-half of the assigned quantity and a 25 percent carrying charge factor (554 therms x 40 cents x 25 percent x 1/2).

1 Q. DO YOU HAVE ANY RECOMMENDATIONS CONCERNING THE BILLING
2 OPTIONS AVAILABLE TO SUPPLIERS?

3 A. Yes. Currently suppliers have two billing options. Suppliers can separately bill
4 customers for natural gas supply service. Under this option, the customer receives one
5 bill from the supplier and one bill from Nicor. Alternatively, suppliers may elect to have
6 Nicor bill customers for the supplier's natural gas supply charges. Suppliers are not
7 currently permitted to bill customers for Nicor's distribution charges. That is, customers
8 cannot receive only one bill rendered by the supplier. Suppliers view the ability to bill
9 customers for all charges, including distribution charges, as an important competitive
10 option. To promote the development of a competitive market for natural gas supply
11 service, Nicor should be required to provide suppliers with the ability to bill customers
12 for Nicor's distribution charges. Nicor's affiliate benefits from prohibiting suppliers to
13 bill for distribution charges, and this recommendation would help address the obviously
14 limited success in establishing a truly competitive customer choice market revealed by
15 Nicor's affiliate overwhelming dominance in the thirdparty supply market. Witness
16 Alexander informs me that adoption of this recommendation would require the
17 Commission to address a number of important consumer protection, disclosure, billing
18 and collection issues and, therefore, may need to be addressed in a separate proceeding or
19 as an extension of the current proceeding.

20

21 Q. DO YOU HAVE ANY OTHER OBSERVATIONS CONCERNING THE CHARGES
22 ASSESSED TO SUPPLIERS BY NICOR?

1 A. Yes. As previously identified, suppliers are assessed a charge of 50 cents per bill if Nicor
2 performs the billing function for a supplier. Nicor has not justified this charge nor is it
3 identified in the Company's tariff. If the Commission does not accept my
4 recommendation to eliminate this charge, the billing charge should be justified and
5 specifically identified in Nicor's tariff. The amount of the billing charge should not be
6 left to Nicor's discretion.

7

8

IV. NICOR ENERGY

9 Q. HAS NICOR ENERGY RECEIVED PREFERENTIAL TREATMENT AND OTHER
10 BENEFITS FROM NICOR UNDER THE *CUSTOMER SELECT* PROGRAM?

11 A. Yes. Eight Nicor employees with a total of 82 years of experience were transferred to
12 Nicor Energy just prior to the commencement of the *Customer Select* program. This
13 gave Nicor Energy a significant competitive advantage over arm's length thirdparty
14 suppliers with respect to understanding Nicor operations and procedures. In addition,
15 since that time, as explained in greater detail by witness Alexander, Nicor employees
16 have worked for Nicor Energy performing certain sales and marketing functions. Such
17 activities would appear to violate the Company's own Standards of Conduct in dealing
18 with suppliers which requires Nicor to treat all suppliers equally, and provides Nicor
19 Energy with advantages unavailable to its competitors.

20

21 Q. DOES NICOR ENERGY ENJOY OTHER COMPETITIVE ADVANTAGES
22 UNAVAILABLE TO UNAFFILIATED SUPPLIERS?

1 A. Yes. Nicor Energy receives a significant competitive advantage over unaffiliated
2 suppliers through the use of the Nicor name and shared logos. By using the Nicor name,
3 Nicor Energy appropriates to itself an advantage in the eyes of the consuming public by
4 taking a recognizable portion of the name of its parent utility company. Use of the Nicor
5 name provides Nicor Energy with free advertising every time the Nicor name is
6 mentioned or printed as part of the *Customer Select* program educational materials. This
7 advertising is paid for by suppliers through the fees and charges applicable under the
8 *Customer Select* program. Unaffiliated suppliers do not receive a similar benefit. In
9 addition, as witness Alexander explains, use of the Nicor name confuses and misleads the
10 public as to with whom it may be dealing, Nicor Energy or Nicor Gas.

11 Q. DO YOU HAVE AN EXHIBIT COMPARING THE SIMILARITY IN THE NICOR
12 GAS AND NICOR ENERGY LOGOS?

13 A. Yes. The logos of Nicor Gas and Nicor Energy are presented in Exhibit PGF-1. As
14 shown there, the logos utilized by Nicor Energy and Nicor Gas are nearly identical. On
15 each logo, the Nicor name overwhelms the individual company names, and is clearly an
16 attempt to blur the distinction between the two companies.

17

18 Q. WHAT DO YOU RECOMMEND WITH RESPECT TO NICOR'S RELATIONSHIP
19 WITH NICOR ENERGY?

20 A. The Commission should promptly adopt an affiliate Code of Conduct for natural gas
21 distribution companies and retail suppliers. Based on the results of the second phase of
22 the pilot, the use of shared names and logos has had significant anti-competitive impacts.

1 Therefore, the Commission should prohibit Nicor Energy and Nicor Gas from using
2 identical or substantially identical names and logos in advertising and marketing.

3
4 V. STORAGE

5 Q. WHAT IS YOUR CONCERN WITH THE ASSIGNMENT AND USE OF STORAGE
6 UNDER THE *CUSTOMER SELECT* PROGRAM?

7 A. As previously explained, Nicor has complete control over the use of interstate pipeline
8 and on-system storage. Third-party suppliers cannot determine how storage is to be
9 utilized to meet their customers' requirements even though the suppliers' customers pay
10 for this storage. Suppliers must accept Nicor's decisions concerning storage utilization.
11 This limits supplier flexibility and reduces the extent to which participating supplies can
12 manage their gas supply costs. Nicor's storage control policy limits supplier initiative
13 and innovation, a prime reason for restructuring in the first place.

14
15 Q. IS NICOR'S ABSOLUTE CONTROL OF STORAGE REASONABLE AND
16 NECESSARY?

17 A. While certain storage inventory levels must be maintained to ensure reliable service,
18 absolute control of storage on a daily basis is not reasonable or necessary. Nicor's larger
19 transportation customers, which have similar access to storage, are not similarly
20 restricted.

21
22 Q. WHAT DO YOU RECOMMEND?

1 A. I recommend that monthly storage inventory parameters be established by Nicor, which
2 must be adhered to by suppliers. As long as suppliers adhere to these parameters, their
3 daily use of storage should not be restricted.

4

5 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY AT THIS TIME?

6 A. Yes, it does